

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BRIAN JERMAINE SMITH,)	
)	
Petitioner,)	
)	
v.)	1:12CV741
)	1:09CR298-1
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On August 3, 2015, the United States Magistrate Judge's Recommendation was filed and notice was served on Petitioner pursuant to 28 U.S.C. § 636. Petitioner filed objections [Doc. #37] to the Recommendation within the time limit prescribed by Section 636. The Court has reviewed Petitioner's objections *de novo* and finds they do not change the substance of the United States Magistrate Judge's Recommendation [Doc. #35], which is affirmed and adopted.

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss [Doc. #31] is GRANTED, Petitioner's Motion to vacate, set aside or correct sentence [Doc. #22] is DENIED, and this action is DISMISSED, and that, finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is DENIED.

This the 8th day of September, 2015.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge